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SENATE

{ REPORT
{ No. 91-829

KWOK KWEN NG

APRIL 30, 1970.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 850]

The Committee on the Judiciary, to which was referred the bill (S. 850) for the relief of Kwok Kuen (Kwen) Ng, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

AMENDMENTS

1. In line 5, change the name "Kwok Kuen (Kwen) Ng" to read as follows: "Kwok Kwen Ng."
2. Change the title of the bill so as to read: "A BILL for the relief of Kwok Kwen Ng."

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to waive the excluding provision of existing law relating to one who made misrepresentations in connection with a prior passport application in behalf of Kwok Kwen Ng. The bill has been amended in accordance with the suggestion of the Commissioner of Immigration and Naturalization to correct the beneficiary's name.

STATEMENT OF FACTS

The beneficiary of the bill is a 30-year-old native and citizen of China who resides in Hong Kong with his wife and two children. His father, a naturalized U.S. citizen and veteran of the U.S. Army, has obtained a fourth-preference for the beneficiary as the married son of a

U.S. citizen. However, the beneficiary has been found to be ineligible to receive a visa because of misrepresentations made in connection with a prior passport application. Without the waiver provided for in the bill, he will not be able to be reunited with his parents, brothers, and sisters in the United States.

A letter, with attached memorandum, dated July 29, 1969, to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C. July 29, 1969.

A-13151414.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 850) for the relief of Kwok Kuen (Kwen) Ng, there is attached a memorandum of information concerning the beneficiary. The correct name of the beneficiary is *Kwok Kwen Ng*.

The bill would waive the provisions of the Immigration and Nationality Act which exclude from admission into the United States aliens who seek to procure, or have sought to procure, or have procured a visa or other documentation, or seek to enter the United States, by fraud, or by willfully misrepresenting a material fact, and would authorize the issuance of a visa for the beneficiary's admission for permanent residence if he is otherwise admissible under that act. The bill limits the exemption granted the beneficiary to grounds for exclusion known to the Secretary of State or the Attorney General prior to its enactment.

The beneficiary, a native of China, is chargeable to the fourth preference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

RAYMOND F. FARRELL,
Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 850

Information in this case was obtained from the father of the beneficiary who is the interested party.

The beneficiary, Kwok Kwen Ng, a native and citizen of China, was born out of wedlock on June 11, 1939. He resides in Hong Kong with his wife and child. They have never been in the United States.

The beneficiary received 7 years of schooling in China and has no particular skills. He is not employed, and is supported by the \$100 per month sent to him by his father. He has no assets. Close relatives are his parents, two sisters and two brothers. His father, sisters, and one brother are naturalized U.S. citizens. His mother and one brother are lawful perma-

nent resident aliens. The beneficiary married Chen Yung, a native and citizen of China, in Hong Kong in 1963, and they have one minor child.

The interested party, Arthur Hung Sik Ng, a native of China and a naturalized U.S. citizen, was born on April 14, 1920. He has had no formal schooling and is a retired cook. He receives \$284 per month from the Social Security Administration and the Veterans' Administration. His assets consist of his home valued at about \$20,000 and \$2,000 in savings. Close relatives are a sister, who is a citizen of China residing in Singapore, and five children including the beneficiary. Three of the four children residing in the United States are U.S. citizens and the remaining one is a citizen of China and a lawful permanent resident alien. The interested party served in the U.S. Army from March 9 to August 9, 1943.

A visa petition filed on December 30, 1959, by the interested party in behalf of the beneficiary as the child of a U.S. citizen, was approved on April 8, 1960. This petition was returned to the American Consulate at Hong Kong with a statement that in connection with an investigation conducted in reference to a passport application by the beneficiary, it was found that he was Ng Kwok Kwen and not Chin Kwok Kwen as claimed and was apparently not the blood son of the petitioner. A visa petition filed on June 21, 1963, by the interested party to accord the beneficiary second-preference classification, was subsequently converted to first-preference classification and approved on September 12, 1963. On February 15, 1966, the visa application of the beneficiary was refused on the grounds that he had previously attempted to procure travel documentation by willfully misrepresenting a material fact.

Private bill S. 4138, 90th Congress, introduced in the beneficiary's behalf was not enacted.

A letter, with attached memorandum, dated November 14, 1969, to the chairman of the Senate Committee on the Judiciary from the Acting Assistant Secretary for Congressional Relations, U.S. Department of State, with reference to the bill reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 14, 1969.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Kwok Kuen (Kwen) Ng, beneficiary of S. 850, 91st Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Consulate General at Hong Kong where the beneficiary was issued a nonimmigrant visa. S. 4138, 90th Congress, introduced on his behalf, was not enacted.

The bill would waive the provisions of the Immigration and Nationality Act which exclude from admission into the United States aliens who seek to procure, or have sought to procure, or have procured a visa or other documentation, or seek to enter the United States by fraud, or by willfully misrepresenting a material fact, and would authorize the issuance of a visa for the beneficiary's admission for permanent residence if he is otherwise admissible under that act. The bill limits the exemption granted the beneficiary to the grounds for exclusion known to the Secretary of State or the Department of Justice prior to its enactment.

Sincerely yours,

H. G. TORBERT, Jr.,

Acting Assistant Secretary for Congressional Relations.

Enclosure.

MEMORANDUM OF INFORMATION CONCERNING S. 850.—SUBMITTED
BY THE AMERICAN CONSULATE GENERAL AT HONG KONG

Ng Kwok Kuen, also known as Chin Kwok Kuen, was born June 11, 1939, in Nee Loung village, Tsat Lun Heung, Kwangtung, Toishan, China. He has resided in Hong Kong since 1956.

The beneficiary married Yung Ching Sheung in Hong Kong on January 21, 1963. Mrs. Ng was born January 24, 1939, in Lok Sar village, Mu Been Heung, Kwnagtung, Toishan, China. They have two children, both born in Hong Kong, a son, King Sing, born June 15, 1966, and a daughter, Pui Chun, born August 12, 1969. Mr. Ng's father, Ng Hung Sik, also known as Chin Kim Orn, mother, Ng Chan Shui Fong, two sisters, Pauline Patricia and Arlene, and two brothers, William Anthony and Kwok Wai are residing at 39 Dwight Street, Boston, Mass.

The beneficiary attended primary school in China from 1949 to 1953. He was unemployed from 1953 to 1969. He is presently employed in a tin factory with a monthly wage of HK\$200. His father sends him US\$110 a month.

Ng Kwok Kun is the beneficiary of a visa petition filed by his father, Arthur Hung Sik Ng, at the Boston office of the Immigration and Naturalization Service on June 21, 1963, and approved September 11, 1963, according him fourth-preference status as the married son of a U.S. citizen. His visa application was denied on February 15, 1966, under section 212(a)(19) of the Immigration and Nationality Act. On August 3, 1960, when the beneficiary was over 18 years of age he applied for a U.S. passport in the false identity of Chin Kwok Kuen, the son of Chin Kim Orn. At the time of his application he knew that his father was in a false identity and that he was not a U.S. citizen. He is not eligible for a waiver under section 212(i) of the act as he is not the parent, spouse, or child of a U.S. citizen or of an alien lawfully admitted for permanent residence.

Should the medical examination or background investigation disclose any additional cause for visa ineligibility a further report will be made.

Senator Edward W. Brooke, the author of the bill, has submitted the following information in connection with the case:

U.S. SENATE,
Washington, D.C., March 14, 1969.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: Thank you for your communication of March 5 with regard to my bill, S. 850, for the relief of Kwok Kuen Ng.

In an effort to assist the Committee on the Judiciary in this matter, I am enclosing a very detailed and thoughtful letter written by Andrew Reiner, a lawyer from New York who is presently retained by the family.

Section 212(i) of the Immigration Act provides for a waiver of ineligibility under section 212(a) (19) only in the case of an alien who is the spouse, parent, or child of a U.S. citizen or of an alien lawfully admitted for permanent residence. As the law defines a child as an unmarried person under the age of 21, Mr. Ng is ineligible to apply since he is married and over 21. Therefore, his only means of relief is through favorable consideration of a private relief bill.

It is my hope that the committee will act expediently and favorably and that you will call on me should you have further questions or desire additional assistance in this regard.

Sincerely yours,

EDWARD W. BROOKE.

LAW OFFICES OF ANDREW REINER,
New York, N.Y., September 27, 1968.

HON. EDWARD W. BROOKE,
U.S. Senator, New Senate Office Building, Washington, D.C.

MY DEAR SENATOR BROOKE: I am writing to give you the requested information on the case of NG Kwok Kuen (Kwen), presently residing at 15 Mercury Street, 2d Floor, Causeway Bay, Hong Kong, B.C.C., and to return the information sheet, filled in, together with several letters from people who know the family.

Your constituents are Mr. and Mrs. NG Hong Sik (also known as Arthur H.S. NG), residing at 39 Dwight Street, Boston, Mass. The person on whose behalf the private bill is sought is their oldest son. His signed statement is also enclosed.

The equities and problems in this case can best be understood by knowing something of the history of the family. The Ng's are simple village people, hardworking and respectable, whose problems have arisen out of the very unfair former restrictions in our quota laws against Chinese persons, and their strong desire to come to a country where they could earn their living by honest work, and live together as a family.

Mr. Ng, who was born in Toishan, China in 1920, came to the United States in 1939 in the only way then open to most Chinese, namely, as the paper son, Chin Kim On, of a Chin who was in fact a citizen of the United States. In his paper identity, Ng's birthdate was November 3, 1923, making him too young when he arrived at Boston in April of

1939, to admit that he was married and that his bride was pregnant. He entered as the unmarried 15½-year-old son of the Chin family. His son was born in the village on October 11, 1939, and given the name of NG Kwok Kuen (Kwen). Mr. Ng at all times supported his wife, Chin Shiu Fong, and his son, whose true identities and relationship to him were common knowledge in the village.

In 1947, at the first opportunity, Mr. Ng returned to the village. He and his wife started to make plans for reunion in the United States. His wife also became pregnant again. In 1948, he went to the American Consulate in Canton, China, made an official declaration as to his marriage (which he claimed had been entered into just a short while before) and stated that his wife was pregnant. The second child was born on August 2, 1948, and given the name of the paper family, Chin Kwok Way. The wife, whose true family name was Chin, had meanwhile taken Lee as a family name, fearing that there might be questions asked about the fact that a Chin had married a Chin. No mention was as yet made to any government official of the existence of the first son, because the Ng's could not figure out how to account for him without shattering their paper identities.

Mr. Ng returned to the United States in 1949, shortly before the Communists took over in China. He thereafter made petitions for the immigration of his wife and second son, who came to Hong Kong and in 1952 received the visas to permit their entries into the United States on September 12, 1952.

Before Mrs. Ng left the village, she promised her first son, then about 12 years old, that his parents would send for him just as soon as possible, and would make arrangements for him to leave the village and await his visa in Hong Kong, and cautioned him that he must at all times remember that when he arrived in Hong Kong, he was no longer to be known as Ng, but was to become a Chin, which new identity he must keep from that time on. The boy managed to reach Hong Kong in 1954 or 1955 and took up the Chin identity. He was then well under 16 years of age.

Mr. and Mrs. Ng were constantly occupied with the problem of how to get their first son here. After the passage of the Refugee Relief Act of 1953, they thought they might try to bring him in as a nephew. But at the last moment they decided they did not like such a procedure, and did not go ahead with it. They meanwhile had three more children, American citizens, born in Boston in 1953, 1959, and 1962.

As mentioned before, the Ngs are simple village people, not capable of niceties of scheme, or even of realizing that, with the Chinese confession program, they would have been able to solve their problems because Mr. Ng, an honorably discharged veteran of the U.S. Army, could be immediately naturalized in his true identity.

In 1960, they hit upon the idea of petitioning for the boy as Mrs. Ng's illegitimate son. The petition was duly submitted, Mr. Ng was interviewed and admitted that he had fathered the boy, and blood tests of course were compatible. The Ngs were advised that their later marriage had legitimated the son. They were also advised that as the legitimated son of a U.S. citizen who had resided in the United States prior to the boy's birth, the boy was himself a U.S. citizen. The Ngs are very confused about happenings at this period. They do not know whether this advice came from the Immigration and Naturalization Service, or

from Marjorie S. Reynolds, a woman who is not a lawyer, who helped people in immigration matters. At any rate, Miss Reynolds helped them to prepare affidavits setting forth the facts on which the claimed citizenship was based, and they wrote to their son, telling him of the latest development, and directing him to go to the American Consulate and apply for a passport as a U.S. citizen.

On August 3d, 1960, using the identity which had been his ever since he had come to Hong Kong as a child, the son made application for a passport as a U.S. citizen. He was not practiced at deception, nor did he have any natural aptitude for it. His story showed imperfections and gaps on questioning, and an investigation was made. The parents were called in to the Immigration Service here and questioned, and advised that the confession program was available, although they did not then admit to any deception. In 1961, the boy was refused a passport, upon the ground that he was not the person he claimed to be, and hence not a citizen.

In 1962, Mr. and Mrs. Ng voluntarily went to the Immigration and Naturalization Service in Boston, and confessed. Mr. Ng was naturalized immediately, on the basis of his Army service, and through his true citizenship brought about a legalization, as permanent residents, of the status of his wife and second son.

Mr. Ng now petitioned for preference quota status for his son Ng Kwok Kuen (Kwen), believing that since the truth had been revealed, all of their problems were over. The petition was approved and forwarded to Hong Kong. Ng Kwok Kwen, newly married, went to the Consulate to apply for a visa as his true self. Much to the surprise and despair of the family, who had been told that participation in the confession program carried with it forgiveness of past misrepresentations if there was true underlying eligibility for the status sought, the son, on February 15, 1966, was denied a visa under section 212(a)(19) of the act, as a person who had committed fraud or wilfully misrepresented a material fact to obtain a visa or other documentation (in this case, the unsuccessful passport application). The Consular denial letter went on to state:

The refusal in your case is mandatory and no further consideration will be given to your application.

The State Department, in spite of our efforts, has persisted in this rigid attitude. The fact that there was a voluntary confession by the parents; that the son made the passport application while under the age of 21 at the express direction of his parents; that if the son had been in the United States when the parents' confession took place he would have been permitted some form of adjustment; the fact that this stand virtually guarantees a lifelong separation—all of these have been urged but will not change the State Department's position. The specific fraud waiver for close family contained in section 212(i) of the act is of no help in this situation because the "child" described in the act must be under 21 and unmarried and the son no longer comes within this category.

We have carefully examined the situation, from every possible approach, and believe that the only solution to this problem, the only possibility of ending this unhappy separation, is the introduction of private legislation on this young man's behalf. He has, after all, com-

mitted no heinous crimes or derived no unfair benefits or preference. He was seeking, on the specific instruction of his parents, to obtain the documentation that would permit his reunion with his blood family in the United States of America.

We feel that some solution ought to be made available to cope with this unhappy problem. Since the general immigration law makes no provision for it, we hope that the Congress will see fit to act in the vacuum, so that the last member of this almost entirely American citizen family can be reunited with his parents, sisters, and brothers in the country that they love and have fought for.

Respectfully yours,

ANDREW REINER.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 850), as amended, should be enacted.

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